

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:CORP:3

PLR-121643-19

Date:

March 16, 2020

Legend

Distributing =

Controlled =

QSub =

State X =

State Y =

Shareholder 1 =

Shareholder 2 =

Shareholder 3 =

Employees =

Property Manager =

a =
b =
c =
Business A =
X Services =

Dear :

This letter responds to your September 12, 2019 request for a ruling on certain federal income tax consequences of a Proposed Transaction defined below. The information submitted in that request and in subsequent correspondence is summarized below.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for the ruling, it is subject to verification on examination.

This letter is issued pursuant to section 4 of Rev. Proc. 2017-52, 2017-41 I.R.B. 283, amplified and modified by Rev. Proc. 2018-53, 2018-43 I.R.B. 667, and 6.03(2) of Rev. Proc. 2019-1, 2019-1 I.R.B. 1, regarding a significant issue under section 355 of the Internal Revenue Code. The ruling contained in this letter only addresses a significant issue involved in the Proposed Transaction. This office expresses no opinion as to the overall tax consequences of the Proposed Transaction or as to any issue not specifically addressed by the ruling below.

Summary of Facts

Distributing is a State X subchapter S corporation. Distributing is wholly owned by Shareholder 1, Shareholder 2, and Shareholder 3. Shareholder 1 owns a shares, Shareholder 2 owns b shares, and Shareholder 3 owns c shares in Distributing. Distributing is directly engaged in Business A in State X and State Y. Distributing wholly owns QSub, a State X corporation which has elected to be treated as a qualified subchapter S subsidiary under section 1361.

Shareholder 1 is an employee of Distributing and performs X Services for Business A. Additionally, Property Manager performs X Services for Business A.

Proposed Transaction

For what are represented to be valid corporate business purposes, Distributing proposes to engage in the following transaction (the “Proposed Transaction”):

1. Distributing will form Controlled as a State X corporation. Distributing will contribute the State X assets associated with Business A to Controlled in exchange for Controlled stock and the assumption by Controlled of the liabilities associated with the State X Business A assets (the “Contribution”).
2. Distributing will distribute the Controlled stock to Shareholder 3 in exchange for the Distributing stock held by Shareholder 3 (the “Distribution”). Following the Distribution, Controlled will elect under section 1362 to be treated as a subchapter S corporation.

Following the Distribution, either Shareholder 1 or Shareholder 2, and certain Distributing Employees will perform X Services, and Property Manager will continue to perform X Services for Distributing. Following the Distribution, Shareholder 3 will perform X Services for Controlled.

Distributing has submitted the information required by section 4 of Rev. Proc. 2017-52 for the Distribution.

Representations

With respect to the Proposed Transaction, taxpayer has made the following representations in the Appendix of Rev. Proc. 2017-52: 9, 10, 11(a), and 12.

Distributing also makes the following representation:

Except for the issue of whether section 355(b)(2)(A) and (B) have been satisfied, the Contribution and the Distribution will qualify as a transaction in which no gain or loss is recognized to Distributing, Controlled, or Distributing’s shareholders, and no amount is included in the income of Distributing’s shareholders, under section 368(a)(1)(D) and section 355.

Ruling

Based solely on the facts and information submitted and the representations made, we rule as follows:

Distributing and Controlled will each satisfy the requirement of section 355(b)(2)(A) and (B) and will be engaged, immediately after the Distribution, in the active conduct of a trade or business that has been actively conducted throughout the five-year period ending on the date of the Distribution.

Procedural Statements

The ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

In accordance with the power of attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Richard K. Passales
Senior Counsel, Branch 4
Office of Associate Chief Counsel (Corporate)

cc: